

REMARKS

Reconsideration of this application is respectfully requested in light of the foregoing amendments and the following remarks.

Status of Application

In the outstanding Office Action, the Examiner rejected claims 1-5, 8 and 9 under 35 U.S.C. § 112 as being indefinite. Claims 1, 6 and 8-10 were provisionally rejected under the judicially created doctrine of double patenting. Claims 1-10 were rejected over the Aucnet Dialogue Article ("Aucnet") in view of well known methods and claims 1-10 were also rejected over U.S. Patent 4,799,156 ("Shavit") and U.S. Patent 5,451,998 ("Hamrick") in view of well known methods with both rejections arising under 35 U.S.C. § 103(a).

Claims 1, 2, 6, 8 and 10 have been amended to more particularly define the invention and to clearly distinguish over the prior art of record. Claims 11-32 have been added. Thus, claims 1-32 are pending in the application.

Interview

Applicant and applicant's representative thanks the Examiner for the courtesies extended during a personal interview held on July 8, 1997. During the interview the novel features of the invention were addressed including the manner in which a binding offer to sell is transferred to a market and withdrawn. The claimed two-tiered market was also described. Applicant submitted that the rejections under 35 U.S.C. § 103(a) were improper and should be withdrawn in view of the discussion and the proposed amendments to the claims.

Rejection under 35 U.S.C. § 112

Applicant has amended claims 1 and 8 to more clearly define the invention and to eliminate the deficiencies pointed out by the Examiner. Hence, it is respectfully submitted that the rejection of claims 1-5, 8 and 9 be withdrawn.

Provisional Double Patenting Rejection

Claims 1, 6 and 10 have been amended to more particularly define the invention and distinguish over the prior art references. It is believed that these claims are patentably distinct from claim 6 of copending Application No. 08/427,820. Thus, it is respectfully requested that the provisional rejection be withdrawn.

Traversal of Rejection under 35 U.S.C. § 103(a)

Claims 1-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Aucnet in view of well known methods. As stated above, claims 1, 6 and 10 have been amended to more particularly define the invention and distinguish over the applied prior art. Specifically, claim 1 now is clearly directed to a system having a posting/de-posting terminal, posting handler, database, mapping module, and a transaction processor where records of goods are transferred between the terminal and the database and the processor transfers and withdraws binding offers to sell goods. Amended claim 6 provides a related method and amended claim 10 sets forth a two-tiered market. (See page 29, line 5 *et seq.*) Aucnet, which suffers from a lack of an enabling disclosure, appears to disclose an auction that is broadcast over some form of television system and as such fails to disclose the features of

amended claims 1, 6 and 10. For example, Aucnet is silent with regard to binding offers to sell, and retail and dealer pricing and, therefore, Aucnet is not properly combinable with "well known methods" to reject claims 1-10.

Claims 1-10 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over Shavit and Hamrick in view of well known methods. Here again, the combination of references fail to disclose the recitations of claims 1, 6 and 10. Shavit and Hamrick disclose interactive communications systems which allow buyers to purchase products from selected sellers using a computer interface. While these patents set forth communications tools generally, they fail to disclose or suggest features such as the transfer of binding offers to sell, and retail and dealer pricing. Thus, assuming *arguendo* that Shavit and Hamrick are properly combinable, the combination still lacks limitations recited in claims 1, 6 and 10 and the applied "well known methods" do not provide these limitations.

Thus, Applicant respectfully traverses the rejection of claims 1-10 under 35 U.S.C. § 103(a). For the reasons discussed above, it is respectfully requested that this rejection be withdrawn and claims 1-10 be indicated as allowable.

New Claims

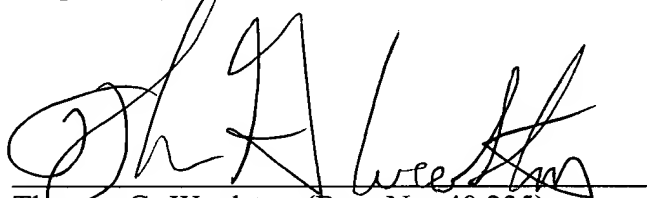
New claims 11-32 have been submitted for consideration. Claim 11 recites a method for establishing an electronic market place for goods including the step of withdrawing a binding offer to sell a good by transferring the offer from the market place back to an original owner which is not disclosed or suggested by any of the cited prior art references. Independent claims 12, 19 and 26 describe a system, a market for goods apparatus and a

method, respectively, drawn to various features of the claimed inventions. It is submitted that the new claims are allowable over the cited prior art references for the same reasons discussed above with respect to claims 1, 6 and 10.

CONCLUSION

It is respectfully submitted that the foregoing remarks demonstrate that the application as amended is in condition for allowance and prompt notification thereof is requested. If the prosecution of this application can be advanced by a telephone conference, the Examiner is requested to call the undersigned at 202-626-5368. Please apply any charges not covered, or any credits, to Deposit Account No. 06-1050.

Respectfully submitted,



Thomas G. Woolston (Reg. No. 40,235)

Dated: July 16, 1997

Fish & Richardson, P.C.
601 Thirteenth Street, N.W.
Suite 500 North
Washington, D.C. 20005
(202) 783-5070 (telephone)
(202) 783-2331 (telecopier)

75911.W11